

	)	
LUIS GUERRERO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 10-12047-JLT
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	

## May 12, 2011

This case was referred to the undersigned for full pretrial case management and report and recommendations on any dispositive motions on December 6, 2010. For the following reasons, the Court recommends to the District Judge to whom this case is assigned that this action be dismissed without prejudice for failure to serve the complaint within 120 days after the complaint was filed in violation of Fed. R. Civ. P. 4(m) and LR 4.1(b).

The complaint in this case was filed on November 26, 2010. As of this date, there has been no return to the Court of proof of service of the summons and complaint as required by Rule 4(m) of the Federal Rules of Civil Procedure and Local Rule 4.1(b) of the Local Rules of this Court. On April 6, 2011, this Court issued an order directing the plaintiff to file proof of service or a statement of good cause why service had not been made by April 20, 2011 or this Court would recommend to the District Judge that this action be dismissed without prejudice. On April 26, 2011, the Court issued another order directing the plaintiff to file proof of service

or a statement of good cause why service had not been made by May 10, 2011 or this Court would recommend to the District Judge that this action be dismissed without prejudice. As of this date, the plaintiff has not filed anything in this case except the complaint. Accordingly, this Court recommends to the District Judge that this action be dismissed without prejudice.

REVIEW BY DISTRICT JUDGE

The parties are hereby advised that under the provisions of Fed. R. Civ. P. 72(b), any party who objects to these proposed findings and recommendations must file specific written objections thereto with the Clerk of this Court within 14 days of the party's receipt of this Report and Recommendation. The written objections must specifically identify the portion of the proposed findings, recommendations, or report to which objection is made, and the basis for such objections. See Fed. R. Civ. P. 72. The parties are further advised that the United States Court of Appeals for this Circuit has repeatedly indicated that failure to comply with Fed. R. Civ. P. 72(b) will preclude further appellate review of the District Court's order based on this Report and Recommendation. See Phinney v. Wentworth Douglas Hospital, 199 F.3d 1 (1st Cir. 1999); Sunview Condo. Ass'n v. Flexel Int'l, Ltd., 116 F.3d 962 (1st Cir. 1997); Pagano v. Frank, 983 F.2d 343 (1st Cir.1993).

/s/ Jennifer C. Boal  
JENNIFER C. BOAL  
United States Magistrate Judge